

## REMARKS

This reply is submitted in response to the office action dated January 8, 2009. Reconsideration of the Application is requested.

Claims 1, 2, 4-12, 16-17, 20, 22, 24-33, 35, 57-62, 65-70, 73-85 are pending. Claims 1 and 33 are amended. No claims are cancelled. No new claims are added. Thus, no new matter is submitted.

### Rejection under 35 USC § 102(b) over US 5,105,038

Claims 1, 2, 4, 7, 10, 16, 20, and 57 are rejected under 35 USC § 102(b) as anticipated by US 5,105,038 ("Chen"). The Examiner suggests that Chen discloses the combination of a propylene-based "two stage lube" and an HVI-PAO in column 9 at Table F.3.1 and thus anticipates the claimed invention. Applicant notes that column 8, line 23 states the two stage lube is a liquid with a VI of 115 to 135 and that column 5, lines 22-26 states the propylene is oligomerized then oligomerized again or interpolymerized. This suggests the propylene product is a low molecular weight liquid oligomeric material. In contrast, Applicant's claims require that the polypropylene have a melt flow rate of from 0.1 to 2500 dg/min (which are not low molecular weight polymers). Support for this limitation is found at page 2, paragraph [0029], page 3, paragraph [0032], and page 3, paragraph [0034] of US 2004/0054040 (the published version of the instant application). Since higher Mw polymers are not disclosed in Chen, the reference cannot anticipate the claimed invention. Thus Applicant respectfully requests that the rejection be withdrawn.

### Rejection under 35 USC § 103(a) over US 5,105,038

Claims 5, 8, 9, 11, 12 and 33 are rejected under 35 USC § 103(a) as obvious over US 5,105,038 ("Chen"). The Examiner suggests that the claimed features would exist in Chen because the "composition is substantially the same." Applicant respectfully disagrees. As noted above nothing within Chen discloses or suggests higher molecular weight polymers (such as those having an MFR of 0.1 to 2500 dg/min). Further there is no motivation to add higher molecular weight polypropylene to a lube. A higher Mw polymer would typically impart too much viscosity, and if the polymer were crystalline, one would run the risk of obtaining gel at

cold temperatures, which is not desirable in lubes, as it causes a reduction in lubricating ability in most applications. Since there is no disclosure of Applicant's polypropylene having an MFR of 0.1 to 2500 dg/min and there is no motivation to add such to Chen, Applicant submits the claimed invention is not obvious from Chen.

Claims 6 and 58 are rejected under 35 USC § 103(a) as obvious over US 5,105,038 ("Chen"). The Examiner suggests that Chen discloses a polydecene oligomer having a pour point of -55 °C and it would be obvious to make a lubricant blend from such. Applicant respectfully disagrees. First, Applicant's claims 6 and 58 are not to lubricant blends. The claims are dependent on claim 1 which requires polypropylene having an MFR of 0.1 to 2500 dg/min. As discussed above, one of ordinary skill in the art does not use such a polypropylene in a lubricant blend. Since there is no disclosure of Applicant's polypropylene having an MFR of 0.1 to 2500 dg/min and there is no motivation to add such to Chen, Applicant submits the claimed invention is not obvious from Chen.

#### Rejection under 35 USC § 102(e) over US 6,639,020

Claim 33 stands rejected under 35 USC § 102(e) as anticipated by US 6,639,020 ("Brant"). Applicant respectfully disagrees, however to further the prosecution process has amended the limitation that polyethylene homopolymer and copolymer having a weight average molecular weight of from 500 to 10,000 is substantially absent from the composition. Applicant respectfully requests the rejection be withdrawn.

#### Response to Rejections based on JP-11049903

Claims 1, 2, 4, 5, 7-12, 16, 20, 33 and 57 are rejected under 35 USC § 103(a) as being unpatentable over JP 11-049903 ("Sasaki").

The Examiner suggests that Sasaki renders claims 1, 2, 4, 5, 7-12, 16, 20, 33 and 57 unpatentable because Sasaki discloses a composition comprising 80-99 wt% of a copolymer of ethylene and propylene and 1-20 wt% of a paraffinic mineral oil having a molecular weight of 200-2000, a kinematic viscosity of 20-800cSt, and a pour point of -40 – 0°C.

Applicant respectfully notes that the case was previously allowed over Sasaki. Sasaki was cited in the office action dated December 5, 2005. In response, applicants pointed out that

Sasaki discloses blends of polyethylene with a process oil that is not a non-functionalized plasticizer as required by Applicant's claims. Paragraph [0016] of the provided translation clearly shows that Sasaki's process oil is a mixture of aromatics, naphthenes and paraffins. In contrast the polyolefin compositions of the present invention include a non-functionalized plastizer ("NFP") which is a compound comprising carbon and hydrogen, and does not include to an appreciable extent functional groups selected from...aryls and substituted aryls, [and]...carbon unsaturation.... By "appreciable extent", it is meant that these groups and compounds comprising these groups are not deliberately added to the NFP, and if present at all, are present at less than 5 wt% by weight of the NFP. (See Page 12, paragraph [0041] of the specification.)

At that time, Applicant also pointed out that the specific oils used in Sasaki's examples are most likely *Diana* Process Oils from Idemitsu Kosan (incorrectly translated as "dynaproprocess" oil in the attached translation). Diana Process Oils PW-90 and PW-380 described in the examples are both known to have a pour point of -15 °C. Paragraphs [0048] and [0049] of previously provided US 2005/0271851 show Diana Process Oils PW-90 and PW-380 have pour points of -15 °C. Thus, Diana Process Oil's PW -90 and PW-380 do not fall within Applicant's claimed invention.

The Applicant respectfully also notes that Sasaki is directed to adhesive polyethylene compositions. Adhesives are known to be low molecular weight compounds of the type expressly excluded by the requirement that polyethylene homopolymers and copolymers having a weight average molecular weight of from 500 to 10,000 are substantially absent from the composition of claim 1. The remaining claims are directed to polypropylene-based compositions; however to further the prosecution process Applicant has amended the claims to state that the polypropylene is a homopolymer or a copolymer having up to 0.1 to 30 wt% of a comonomer selected from the group consisting of ethylene and C4 to C20 alpha-olefins. This language clearly excludes "ethylene polymers" such as are disclosed in Sasaki. One of ordinary skill in the art would not regard propylene polymer with up to 30 wt% ethylene to be an "ethylene polymer".

Given the differences in the composition of the process oil and the types of polymers used by Saski, there is no reasonable expectation that the claimed non-functionalized plasticizers, which are neither disclosed by nor reasonably inferred from Sasaki, would be suitable in the higher molecular weight polypropylene compositions recited in the claims.

For these reasons, Applicants respectfully request the rejection of claims 1, 2, 4, 5, 7-12, 16, 20, 33 and 57 under 35 USC § 103(a) over Sasaki be withdrawn.

### Conclusion

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Reconsideration and allowance is respectfully requested. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

Please charge any deficiency in fees or credit any overpayments during the entire pendency of this case to Deposit Account No. 05-1712 (Docket #2002B107A). Please also charge any petition fees, including fees for extensions of time necessary for the pendency of this case or copendency of this application with another application at any time to Deposit Account No. 05-1712 (Docket #2002B107A).

Respectfully submitted,

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